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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,977	01/04/2002	Johannes Cornelis Blonk	F7453(V)	4398

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EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/889,977

Applicant(s)

BLONK ET AL.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 13-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed January 24, 2005 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "It will be apparent that the above process is a batch process".

Applicant is required to cancel the new matter in the reply to this Office Action.

Specification

2. The disclosure is objected to because of the following informalities: it lacks section headings such as "Summary of the Invention".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 13-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

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had possession of the claimed invention. The application does not appear to disclose a "batch process".

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 13-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 13 recites "a springiness... comparable with that of cooked untreated rice". It is not clear what level of "springiness" would be considered "comparable".

8. Claim 13 recites "a firmness... comparable with that of cooked untreated rice". It is not clear what level of "firmness" would be considered "comparable".

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greethhead [Pat. No. 4,478,862] in view of Takao Heki et al [Pat. No. 3,701,667].

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Greethead teaches a method of making a rice product with a microporous structure (column 2, line 60), a preparation time of less than 8 minutes (column 1, line 15), a lack of grittiness, a normal density of 0.8-0.85 kg/l (column 3, line 1), a final density of 0.3-0.6 kg/l (column 3, line 6), a lack of broken kernels, milled or polished rice (column 1, line 9), heat treatment in an annular, fluidized, swirling, toroidal bed (Figure 1, #1-3), a lack of transverse crack and holes greater than 500 microns, the air being at 100-600°C (column 3, line 40), a treatment time of 2-30 seconds (column 2, line 54), a starting water content of 13% (column 6, line 10), an air blower (column 4, line 11), and recirculating gas (Figure 1, #16). Properties such as "springiness", "pore distribution", "colour", "cracks", "rim", and "internal sponge" would have inherently been possessed by the product of Greethead due to the use of identical materials and treatment parameters. Greethead does not recite the rotational speed of the blower, namely at less than 60 Hz (claim 20), an air velocity of less than 50 m/s (claim 18), or whether rice is added in batches or continuously (claim 13). Takao Heki et al teach a process for heating rice in a fluidized, annular bed (Figure 1, #1) by adding the rice in batches (column 6, lines 5-20) and an air speed of less than 20 m/s (column 5, line 13). It would have been obvious to one of ordinary skill in the art to incorporate the air speed of Takao Heki et al into the invention of Greethead since both are directed to methods of heating rice, since Greethead already included a fluidized bed of air (Figure 1, #1-3), and since air moving at less than 20 m/s was commonly used for heating rice, as shown by Takao Heki et al (column 5, line 13). It would have been obvious to one of ordinary skill in the art to operate the blower of Greethead, in view of Takao Heki et al, at less

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than 60 Hz since this speed would have been attempted during the course of normal experimentation, since Greethhead simply does not state what speed was used, and since Takao Heki et al already teaches using air at less than 20 m/s (column 5, line 13). It would have been obvious to one of ordinary skill in the art to use Greethhead as a batch process, in view of Takao Heki et al, since both are directed to methods of heating rice, since Greethhead does not specify whether a batch process or a continuous process was used, and since a batch process, such as that taught by Takao Heki et al, would have provided the benefit of averting clogs in the system due to trapped or accumulating rice kernels.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McCullough et al [Pat. No. 4,878,422] and Bichsel [Pat. No. 6,299,922] teach batch processes for heating rice.

Response to Arguments

12. Applicant's arguments with respect to claims 13-21 have been considered but are moot in view of the new ground(s) of rejection.

Regarding Greethhead, applicant argues that he "has been informed" that the process of Greethhead gives different results. However, applicant provided no factual evidence of this conclusion.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew E Becker
Primary Examiner
Art Unit 1761


DREW BECKER
PRIMARY EXAMINER
2-17-05